

# Exhibit F

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY**

**IN THE MATTER OF THE ADMINISTRATIVE  
INSPECTION OF:**

**H.D. SMITH WHOLESALE DRUG  
6001 Global Distribution Way  
Suite 102  
Louisville, Kentucky 40228**

)  
)  
)  
) **MAGISTRATE**  
) **Case No.**  
)  
)

**AFFIDAVIT FOR AN ADMINISTRATIVE INSPECTION WARRANT UNDER THE  
AUTHORITY OF TITLE 21, UNITED STATES CODE, SECTION 880**

Scott W. Kurtz, a duly authorized Diversion Investigator of the Drug Enforcement Administration, Department of Justice, assigned to the DEA Detroit Division Office, hereby applies for an inspection warrant pursuant to Section 510 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513), 21 U.S.C. Section 880 and having been duly sworn, hereby submits this affidavit in support of the warrant for the inspection of the controlled premises as follows:

1. The H. D. Smith Wholesale Drug Company ("HD Smith"), 6001 Global Distribution Way, Suite 102, Louisville, Kentucky 40228, is registered under the provisions of the Controlled Substances Act, Title 21, United States Code Section 822 et seq., as a distributor under DEA registration RH0347282 which expires on October 31, 2011. HD Smith's corporate office is located at 3063 Fiat Avenue, Springfield, IL 62703. HD Smith's Louisville, Kentucky location referenced above is a "controlled premises" within the meaning of Title 21, U.S.C. § 880(a) and Title 21, Code of Federal Regulations, Section 1316.02(c). Pursuant to its registration, HD Smith is authorized to handle controlled substances in Schedules II, IIN, III, IIIN, IV and V. HD Smith is required to keep complete and accurate records of all controlled substances received, sold, delivered or otherwise disposed of pursuant to Title 21, United States Code, Section 827, and Title 21, Code of Federal Regulations 1304.01 et seq., on the controlled premises.
2. HD Smith was last inspected by DEA Investigators from DEA Louisville on March 24, 2010. During this inspection it was revealed that HD Smith sells large amounts of controlled

substances to retail pharmacies in many states including large amounts in both Ohio and Kentucky. The investigators conducting the audit reviewed due diligence files on various pharmacies receiving excessive purchase of controlled substances and concluded that HD Smith's Security Section documented these excessive purchases but took no action to stop the sales.

3. HD Smith is required by 21 C.F.R. § 1310.74(b) to design and operate a system to disclose suspicious orders and to inform DEA of suspicious orders when discovered by HD Smith.

4. HD Smith is required by 21 C.F.R. § 1310.74(a) that before distributing a controlled substance to any person who the registrant does not know to be registered to possess the controlled substance, the registrant shall make a good faith inquiry either with the Administration or with the appropriate State controlled substances registration agency, if any, to determine that the person is registered to possess the controlled substance.

5. The United States Code, Title 21, Chapter 13, § 827 created the requirement for manufacturers and distributors to report their controlled substances transactions to the Attorney General. The Attorney General delegates this authority to the Drug Enforcement Administration (DEA). Automation of Reports and Consolidated Orders System (ARCOS) is an automated comprehensive drug reporting system which monitors the flow of DEA controlled substances from their point of manufacture through commercial channels to the point of sale or distribution at the dispensing/retail level. Included in the list of controlled substance transactions tracked by ARCOS are the following: All Schedules I and II materials (manufactures and distributors); Schedule III narcotic and gamma-hydroxybutyric acid (GHB) materials (manufactures and distributors); and selected Schedule III and IV psychotropic drugs (manufacturers only). ARCOS accumulates these transactions which are then summarized into reports which give investigators in Federal and state government agencies information which can then be used to identify the diversion of controlled substances into illicit channels of distribution.

6. On February 12, 2009, Southgate Pharmacy was issued DEA registration FS1253765 as a retail pharmacy located at 2920 South High Street, Columbus, OH 43207. Beginning in March 2010, the DEA Columbus District Office investigated Southgate Pharmacy due to the purchasing and dispensing of excessive quantities of hydrocodone and oxycodone products. During the period of March 2009 through June 2010 Southgate Pharmacy purchased approximately 2,378,100 hydrocodone (Schedule II) products and 1,817,760 oxycodone (Schedule III) products.

7. Your Affiant reviewed an ARCOS compilation referencing the distribution of oxycodone by H.D. Smith over the time period of April 2009 through June 2010. This chart shows seven of the top purchasing pharmacies and shows Southgate Pharmacy exceeded all other customers' combined totals for oxycodone products. The time frames and the respective oxycodone dosage amounts for these customers are detailed below:

Month/Year	Southgate Pharmacy Columbus, Ohio	Westside Pharmacy Oceana, WV	Oakland Park Pharmacy Columbus, Ohio	Drug Store Pharmacy Columbus, Ohio	Apple Discount Drug Clinton, TN	Marwood Low Cost Pharmacy Indianapolis, IN	Rhonda's Pharmacy Beckley, WV
09-Apr	35,100	45,800	25,500	59,800	11,000	12,000	28,400
09-May	51,960	34,500	23,800	50,400	14,200	2,400	32,300
09-Jun	61,300	37,200	24,700	32,000	18,600	5,500	30,800
09-Jul	68,600	24,200	23,000	49,700	19,300	8,800	36,700
09-Aug	67,700	23,900	24,200	39,500	21,500	10,200	27,400
09-Sep	78,300	38,100	29,800	26,300	21,500	12,000	22,500
09-Oct	97,400	41,500	28,900	28,600	21,500	15,800	14,600
09-Nov	124,200	31,600	32,300	10,600	17,100	14,900	20,500
09-Dec	142,400	29,200	31,500	24,000	24,000	22,400	21,000
<b>2009 Total</b>	<b>726,960</b>	<b>306,000</b>	<b>243,700</b>	<b>320,900</b>	<b>168,700</b>	<b>104,000</b>	<b>234,200</b>
10-Jan	189,800	47,500	34,300	18,600	23,600	25,100	17,400
10-Feb	202,500	39,700	31,000	23,700	23,700	21,800	19,800
10-Mar	237,800	55,000	36,200	27,800	24,500	29,900	23,000
10-Apr	229,300	49,500	34,400	19,600	28,000	28,000	23,300
10-May	205,100	48,700	37,700	22,000	24,500	30,200	22,300
10-Jun	26,300	54,400	37,600	18,600	22,700	29,300	23,000
<b>2010 Total</b>	<b>1,090,800</b>	<b>294,800</b>	<b>211,200</b>	<b>130,300</b>	<b>147,000</b>	<b>164,300</b>	<b>128,800</b>

8. Your Affiant reviewed an ARCOS compilation referencing the distribution of hydrocodone products by H.D. Smith over the time period of March 2009 through June 2010. This chart shows seven of the top purchasing pharmacies and reveals Southgate Pharmacy purchases exceeded all other customers' combined totals for hydrocodone products. The time frames and the respective hydrocodone dosage amount totals for these customers are detailed below:

Month/Year	Southgate Pharmacy Columbus, Ohio	PCA Corrections Louisville, KY	Smith County Drug Inc Carthage, TN	Cooper Drugs Inc. Charleston, IN	Cos's Variety and Pharmacy Louisville, KY	Hurley Drug Co. Williamston, WV	Hinkle Hometown Drug Store Barbourville, KY
9-Mar	33,300	73,700	51,700	70,200	60,600	74,100	28,900
9-Apr	30,600	83,800	59,700	67,700	65,800	66,600	31,900
9-May	140,800	93,000	56,500	66,000	62,400	67,500	30,500
9-Jun	140,300	83,000	64,100	69,400	64,000	69,600	34,300
9-Jul	118,100	99,900	68,600	61,700	64,500	73,500	34,600
9-Aug	136,200	97,900	58,500	60,000	62,500	71,900	32,100

9-Sep	164,500	104,400	63,300	70,500	77,700	62,600	35,000
9-Oct	171,100	99,500	57,800	65,500	66,200	74,800	32,600
9-Nov	168,800	101,200	70,800	65,100	49,500	70,500	35,300
9-Dec	176,100	96,000	60,400	65,200	55,900	63,500	34,700
<b>2008 Total</b>	<b>1,269,800</b>	<b>932,400</b>	<b>611,400</b>	<b>661,300</b>	<b>629,100</b>	<b>694,800</b>	<b>329,900</b>
10-Jan	248,500	101,700	68,300	62,000	54,100	58,100	35,800
10-Feb	184,100	106,400	61,500	61,900	53,800	56,000	31,800
10-Mar	231,900	122,700	64,500	74,700	55,000	20,900	36,700
10-Apr	221,700	78,100	69,800	69,600	63,440	26,800	36,700
10-May	182,300	111,900	61,500	72,520	55,600	32,400	32,700
10-Jun	39,800	97,000	66,000	60,200	62,400	45,600	36,300
<b>2010 Total</b>	<b>1,108,300</b>	<b>617,800</b>	<b>391,400</b>	<b>400,920</b>	<b>344,340</b>	<b>239,800</b>	<b>210,000</b>

9. Your affiant knows that Southgate Pharmacy voluntarily terminated their business operation on July 23, 2010 by notifying DEA Columbus, OH of its intent. Prior, to that voluntary termination, DEA Columbus had executed an Administrative Inspection Warrant (AIW) on June 15, 2010 at Southgate Pharmacy for the purposes of prescriptions and records review because of intelligence indicators that the pharmacy was dispensing controlled substance for non-legitimate medical purposes. Subsequent to the AIW, HD Smith had terminated sales to Southgate Pharmacy on June 11, 2010.

10. Your affiant is aware from a review of ARCOS that Westside Pharmacy, RT. 10 Cook Parkway/Logan St., PO Box 69, Oceana, West Virginia 24870, DEA #BW9777559 purchased quantities of Oxycodone and Hydrocodone products from HD Smith which ranked them as one of HD Smith's largest purchasers of these controlled substances.

11. DEA records from the review of ARCOS data (see previous Charts) show the following amounts of Hydrocodone products were distributed by HD Smith to Westside Pharmacy:

2008: 198,900 total dosage units

2009: 229,800 total dosage units

2010 (January through August): 211,200 total dosage units

Grand Total: 639,900 total dosage units

The ARCOS data also revealed that HD Smith distributed the following amounts of Oxycodone products to Westside Pharmacy:

2008: 197,600 total dosage units



2009: 369,200 total dosage units

2010 (January through August): 407,700 total dosage units

Grand Total: 974,500 total dosage units

11. Your affiant is also aware that a Diversion Investigator from the DEA Charleston, West Virginia office obtained information from the State of West Virginia's Prescription Monitoring Program which showed that Westside Pharmacy dispensed numerous quantities of controlled substance prescriptions by multiple physicians based in the State of Florida. [REDACTED]

[REDACTED]

[REDACTED]

In addition, Westside Pharmacy dispenses controlled substance prescriptions written by other physicians practicing in Ohio, Virginia, Kentucky and Alabama.

12. Based on the information contained herein, as well Affiant's training and experience, there is probable cause to believe that HD Smith has not established effective controls to prevent the diversion of controlled substances as required in 21 CSA, Section 823.

13. An inspection pursuant to the requested warrant would be undertaken as part of the authorized inspection program designed to assure compliance with the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513).

14. The inspection will be conducted during regular business hours. The Investigators' credentials will be presented to the registrant as prescribed in Section 510 of the Act. The

inspection will begin as soon as practicable after the issuance of this warrant and will be completed with reasonable promptness.

15. This inspection will extend to the Controlled Premises and all pertinent equipment, records, finished and unfinished materials, containers and labeling therein, including, but not limited to, computerized records, which refer to or relate to the dispensation, administration, or distribution of controlled substances. The inspection will also extend to all records, files, papers, reports, processes, and other documentation that have a bearing on HD Smith's responsibilities under the provisions of the Act and regulations promulgated there under, including, but not limited to, shipping data of controlled substances. A reasonable and good faith effort will be made not to unduly disrupt the everyday operation of the business. To assure HD Smith has continued access to the computer records detailing the dispensation, administration, or distribution of controlled substances the government will attempt to create a forensic image of the individual computers and or servers at the locations to be searched. Further, your Affiant has been advised by a DEA Forensic Computer Examiner that the search of imaged computer records is done by utilizing keywords or phrases to limit access to records that have a bearing on HD Smith's responsibilities under the provisions of the Act.

16. Samples and records required under the Controlled Substances Act, including computerized records, will be collected when necessary and a receipt will be given for any items collected pursuant to the warrant.

17. The undersigned Diversion Investigator may be accompanied by one or more Diversion Investigators and Special Agents duly authorized by the Drug Enforcement Administration, Department of Justice.

18. A return will be made to the Court promptly, accompanied by a written inventory of all records and property taken pursuant to the warrant.

19. The authority for the issuance of the inspection warrant is Section 510 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513).

WHEREFORE, your affiant respectfully requests that an inspection warrant be issued.

\_\_\_\_\_  
Scott W. Kurtz  
DEA Diversion Investigator

Sworn to before me, and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_.